

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STERLING SAMM,

Petitioner,

v.

GENA JONES,

Respondent.

No. 2:24-cv-1987 DJC CSK P

FINDINGS AND RECOMMENDATIONS

Petitioner is a state prisoner proceeding pro se and in forma pauperis. This action was referred to this Court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1). Petitioner's second amended petition and two subsequent filings are before the Court. As discussed below, the Court recommends that the second amended petition be summarily dismissed, and this action be dismissed with prejudice.

I. PROCEDURAL BACKGROUND

On March 14, 2025, respondent's motion to dismiss was granted and petitioner's motion to amend was granted (ECF No. 15.) The Court screened petitioner's first amended petition, and dismissed the first amended petition with leave to amend. (*Id.*) On March 28, 2025, petitioner filed a second amended petition, and asked the Court to take judicial notice of state court records appended to his request. (ECF Nos. 16, 17.) On April 21, 2025, petitioner filed a document styled, "Second Amended Petition for Writ of Mandate/Prohibition/Injunction." (ECF No. 18.)

II. SECOND AMENDED PETITION

Petitioner alleges he was “unlawfully charged by a defective charging instrument” in violation of his Fourteenth Amendment rights. (ECF No. 16 at 2.) Petitioner sets forth two claims for relief: (1) ineffective assistance of counsel based on trial counsel’s failure to have the trial court and prosecution establish jurisdiction and a verified charging instrument (citing Cal. Penal Code § 859); and (2) petitioner was denied the right to appeal in violation of petitioner’s Fourteenth Amendment rights. (ECF No. 16 at 3.)

III. BACKGROUND

On October 21, 2019, in the Yolo County Superior Court, a jury convicted petitioner of “kidnapping, vandalism, infliction of corporal injury on a person with whom [petitioner] ha[d] a dating relationship, making a criminal threat, and false imprisonment.” People v. Samm, No. C090684, 2021 WL 2766530, at *1 (Cal. Ct. App. July 2, 2021) (unpublished).¹ Petitioner filed an appeal. Id. On July 2, 2021, petitioner’s case was remanded to the Yolo County Superior Court “to allow the trial court to clarify its sentencing choices, consider whether the sentences for infliction of corporal injury and false imprisonment must be stayed, and resentence [petitioner] as appropriate.” Id. at *6. The judgment was otherwise affirmed. Id.

After the case was remanded, petitioner filed a “motion to reverse void judgment,” which the prosecution opposed as “procedurally improper and meritless,”² and at an August 2021

¹ In addition to the unpublished decisions available on Westlaw, the Court reviewed the state court dockets. The Court may take judicial notice of facts that are “not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned,” Fed. R. Evid. 201(b), including undisputed information posted on official websites. Daniels-Hall v. National Education Association, 629 F.3d 992, 999 (9th Cir. 2010). It is appropriate to take judicial notice of the docket sheet of a California court. White v. Martel, 601 F.3d 882, 885 (9th Cir. 2010). The address of the official website of the California state courts is www.courts.ca.gov. This California state court website contains decisions from California Courts of Appeal and the California Supreme Court. Thus, references to decisions made in the Yolo County Superior Court are taken from decisions issued by the California Court of Appeal, Third Appellate District, and may not include information, such as the specific day of the month a particular hearing took place.

² Petitioner argued the judgment was void because it was “entered for lack of jurisdiction in the first instance as evidenced by the respondent’s confession of judgment lodged in the record.” People v. Samm, No. C096268, 2022 WL 17494198, at *1 (Cal. Ct. App. Dec. 8, 2022) (unpublished). According to petitioner’s motion, he had filed a motion for discovery under the Administrative Procedures Act and thereafter obtained some form of civil judgment by default

1 hearing, the trial court declined to consider petitioner's motion because he had failed to bring his
2 claims by proper civil or habeas corpus procedures and because "the motion itself [did not] make
3 any sense." People v. Samm, No. C096268, 2022 WL 17494198, at *1 (Cal. Ct. App. Dec. 8,
4 2022). Later, petitioner refiled his motion to reverse void judgment, which was reset, and
5 petitioner subsequently filed a motion to strike the prosecution's opposition. Id.

6 At the sentencing hearing in May 2022,

7 the trial court found that section 654 did not apply to the infliction of
8 corporal injury and false imprisonment counts, and clarified for the
9 record that it originally had understood its discretion to impose
10 consecutive or concurrent sentences regarding the kidnapping
offenses. The court found no reason to change [petitioner's] sentence
and confirmed his original sentence.

11 Id. Later that same day, a different state court judge considered petitioner's motion to reverse the
12 judgment and to strike the prosecution's opposition. Id. at *2. The prosecution argued
13 petitioner's motion was procedurally improper, and "that no principle of law allows a default in a
14 civil action from a different jurisdiction to deprive the court of jurisdiction in the pending
15 criminal matter," but noted the default had been set aside. Id. The court agreed, noting
16 petitioner's "motion was difficult to discern and procedurally improper, finding that [petitioner's]
17 alleged claims were more properly raised in a habeas corpus petition," and denied both motions.
18 Id.

19 Petitioner filed a timely appeal, and was appointed counsel, who filed a brief under People
20 v. Wende, 25 Cal. 3d 436 (1979). Samm, 2022 WL 17494198, at *2. Petitioner then filed a pro
21 se supplemental brief again claiming the judgment should be set aside as void because the trial
22 court lacked jurisdiction to enter it in light of the default purportedly obtained against the People
23 in Alameda County. Id. The court of appeal noted that petitioner "offered no reasoned argument
24 _____
25 against the People in Alameda County Superior Court. Id. Based on the purported default,
26 petitioner argued that the People and the trial court lacked personal and subject matter jurisdiction
27 over him in the criminal proceedings because he was unlawfully charged by a defective charging
28 instrument; that his trial counsel was ineffective because counsel failed to provide a "validity
test" to the charging document; and that the prosecutor violated discovery obligations under
Brady v. Maryland, 373 U.S. 83, 87 (1963). Id. The default was subsequently set aside by the
Alameda County Superior Court. Id. at *2.

1 or legal authority as to why the trial court erred in denying the motion, but rather attached his
 2 motion papers from below, which largely referenced inapplicable abstract legal concepts
 3 pertaining to exhaustion of administrative remedies, confessions of judgment, and settlement
 4 agreements.” Id. The court of appeal found that petitioner provided no basis to conclude the
 5 court erred in denying the motion, and cited “no authority . . . that a civil default from a court in
 6 one county, which has since been set aside by the issuing court, somehow deprives a court in a
 7 different county of jurisdiction to enter a criminal judgment.” Id. The court of appeal agreed
 8 with the trial court that petitioner’s allegations regarding a purportedly defective charging
 9 document or ineffective assistance of counsel were more properly raised in a petition for habeas
 10 corpus. Following examination of the record, the court of appeal found no arguable error and
 11 affirmed the judgment on December 8, 2022. Id. at *2-3.

12 On January 9, 2023, petitioner filed a petition for review in the California Supreme Court.
 13 People v. Samm, No. S278002 (Cal. Sup. Ct.). On February 15, 2023, the petition for review was
 14 denied without comment. Id.

15 On March 6, 2024, petitioner filed a petition for writ of habeas corpus in the California
 16 Supreme Court. Samm (Sterling) on H.C., No. S284132 (Cal. S. Ct.). The petition for writ of
 17 habeas corpus was denied on July 10, 2024. Id.

18 On July 18, 2024, petitioner constructively filed his federal petition. (ECF No. 1 at 7.)

19 IV. SECOND AMENDED PETITION

20 A. Governing Standards

21 Rule 4 of the Rules Governing Section 2254 Cases allows a district court to dismiss a
 22 petition if it “plainly appears from the face of the petition and any exhibits annexed to it that the
 23 petitioner is not entitled to relief in the district court. . . .” Rule 4, R. Gov. § 2254 Cases. This
 24 rule allows courts to screen and dismiss petitions that are “facially defective.” Neiss v.
 25 Bludworth, 114 F.4th 1038, 1045 (9th Cir. 2024) (quoting Boyd v. Thompson, 147 F.3d 1124,
 26 1128 (9th Cir. 1998).) “Rule 4 also permits summary dismissal of ‘claims that are clearly not
 27 cognizable.’” Neiss, 114 F.4th at 1045 (citing Clayton v. Biter, 868 F.3d 840, 845 (9th Cir.
 28 2017). “Dismissal on the basis of lack of cognizability is appropriate only where the allegations

1 in the petition are ‘vague,’ ‘conclusory,’ ‘palpably incredible,’ or ‘patently frivolous or false.’”
 2 Id. (quoting Blackledge v. Allison, 431 U.S. 63, 75-76 (1977) (citation omitted)); Hendricks v.
 3 Vasquez, 908 F.2d 490, 491 (9th Cir. 1990) (collecting cases). “Rule 4 dismissal is not
 4 appropriate simply because a petition will ultimately fail on the merits. Neiss, 114 F.4th at 1041.

5 Rule 2 of the Rules Governing Section 2254 Cases provides that the petition: “shall
 6 specify all the grounds for relief which are available to the petitioner and of which he has or by
 7 the exercise of reasonable diligence should have knowledge and shall set forth in summary form
 8 the facts supporting each of the grounds thus specified.” Rule 2(c), R. Gov. § 2254 Cases.
 9 Petitioner must also clearly state the relief sought in the petition. Id. Additionally, the Advisory
 10 Committee Notes to Rule 4 explains that “notice pleading is not sufficient, for the petition is
 11 expected to state facts that point to a real possibility of constitutional error.” Advisory Comm.
 12 Notes to Rule 4; see Blackledge, 431 U.S. at 75, n.7.

13 B. Petitioner’s First Claim for Relief

14 First, petitioner claims he was denied his Sixth Amendment right to the effective
 15 assistance of counsel under Strickland v. Washington, 466 U.S. 668, 687 (1984), when counsel
 16 failed to have the trial court and prosecution establish jurisdiction and a verified charging
 17 instrument. (ECF No. 16 at 3.) Petitioner alleges that counsel’s failures to (a) establish the
 18 prosecution and trial court’s authority and jurisdiction, and (b) investigate to determine the
 19 validity of the charging instrument were constitutionally ineffective fell below the Strickland
 20 standard. (Id.) Petitioner argues that counsel had a responsibility and duty to interpose a valid
 21 objection, and counsel’s failure to do so prejudiced petitioner, resulting in the violation of
 22 petitioner’s Sixth Amendment rights. (Id. at 4.)

23 1. *Governing Standards*

24 To state an ineffective assistance of counsel claims, petitioners must set forth facts
 25 supporting both prongs of the test identified in Strickland, 466 U.S. at 692, 694. Strickland
 26 requires petitioners to establish (1) that counsel’s representation fell below an objective standard
 27 of reasonableness; and (2) that counsel’s deficient performance prejudiced the defense. Id.

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1 2. *Discussion*

2 Petitioner provided no facts demonstrating the prosecution did not have the authority to
3 prosecute petitioner, that the trial court did not have jurisdiction over the charges brought against
4 petitioner, or that the charging document was defective, to support his putative ineffective
5 assistance of counsel claim. See Strickland, 466 U.S. at 690 (stating that a petitioner making an
6 ineffective assistance of counsel claim must identify the particular acts or omissions of counsel
7 that are alleged not to have been the result of reasonable professional judgment). In this claim,
8 petitioner alleges that trial counsel failed to object, but offers no specific facts showing there was
9 a viable basis for trial counsel to object, or why trial counsel's failures to object were deficient or
10 unreasonable. For example, he fails to explain how the charging document was invalid.
11 "[A]llegations which are not supported by a statement of specific facts do not warrant habeas
12 relief." James v. Borg, 24 F.3d 20, 26 (9th Cir. 1994).

13 Further, petitioner's allegation concerning prejudice is conclusory, merely stating
14 "counsel's failure was prejudice." (ECF No. 16 at 4.) Petitioner fails to set forth facts showing
15 that but for trial counsel's failure to object to the prosecution and trial court's authority and
16 jurisdiction, and failure to challenge the charging document as defective, the outcome of this case
17 would have been different. Petitioner's first claim should be dismissed.

18 Petitioner has had three opportunities to file a petition for writ of habeas corpus that states
19 a cognizable habeas claim, but has consistently failed to set forth facts supporting a cognizable
20 claim for relief. Petitioner's ineffective assistance of counsel claim is too vague and conclusory
21 to meet the requirements of Rule 4. The Court recommends that petitioner's first claim be
22 summarily dismissed without prejudice, but without leave to amend.

23 C. Petitioner's Second Claim for Relief

24 In his second claim, petitioner alleges he was denied his right to appeal, in violation of the
25 Fourteenth Amendment, when the California Third District Court of Appeal "misrepresented the
26 petitioner, failing to allege claims of defective charging document or ineffective assistance of
27 counsel by habeas corpus." (Id. at 4 (citing People v. Samm, No. C096269, at 3 (Cal. Ct. Appeal

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1 Dec. 8, 2022)). Petitioner contends that the state court of appeal failed to respond or address
2 petitioner's ineffective assistance of counsel claim and his Fourteenth Amendment claim. (Id.)

3 However, as petitioner was previously informed, it is only noncompliance with federal
4 law that renders a state court's criminal judgment susceptible to collateral attack in the federal
5 courts. (ECF No. 15 at 6.) The habeas statute dictates that a federal court may issue the writ to a
6 state prisoner "only on the ground that he is in custody in violation of the Constitution or laws or
7 treaties of the United States." 28 U.S.C. § 2254(a). Courts have repeatedly held that "federal
8 habeas corpus relief does not lie for errors of state law." Estelle v. McGuire, 502 U.S. 62, 67
9 (1991) (quoting Lewis v. Jeffers, 497 U.S. 764, 780 (1990)). "[I]t is not the province of a federal
10 habeas court to reexamine state-court determinations on state-law questions." Id. at 67-68.

11 Further, petitioner's reliance on an alleged "due process" violation does not transform
12 petitioner's claim regarding the state court's laws or court rules into a cognizable claim of the
13 violation of a federal constitutional right. See Langford v. Day, 110 F.3d 1380, 1389 (9th Cir.
14 1996) (stating that petitioner cannot "transform a state-law issue into a federal one merely by
15 asserting a violation of due process"). Thus, petitioner's arguments that the state court "failed to
16 respond to or even address the petitioner's claims of Sixth Amendment ineffective assistance of
17 counsel," or the violation of petitioner's due process rights based on the allegedly defective
18 charging document fail to state a cognizable federal habeas claim. (ECF No. 16 at 4.)

19 Finally, this Court lacks subject matter jurisdiction over petitioner's challenge to the
20 California appellate court's December 8, 2022 decision. Petitioner must seek review by filing a
21 petition for a writ of certiorari in the United States Supreme Court. See District of Columbia
22 Court of Appeals v. Feldman, 460 U.S. 462, 486 (1983) (Federal district courts "do not have
23 jurisdiction . . . over challenges to state court decisions in particular cases arising out of judicial
24 proceedings even if those challenges allege that the state court's action was unconstitutional."
25 Only the United States Supreme Court may review those decisions.); Rooker v. Fidelity Trust
26 Co., 263 U.S. 413, 416 (1923); Mothershed v. Justices of Supreme Ct., 410 F.3d 602, 606 (9th
27 Cir. 2005) ("Under Rooker-Feldman, lower federal courts are without subject matter jurisdiction
28 to review state court decisions, and state court litigants may therefore only obtain federal review

1 by filing a petition for a writ of certiorari in the Supreme Court of the United States.”), as
2 amended on denial of reh’g (July 21, 2005), op. amended on denial of reh’g, 2005 WL 1692466
3 (9th Cir. July 21, 2005); Kougasian v. TMSL, Inc., 359 F.3d 1136, 1139 (9th Cir. 2004) (Rooker-
4 Feldman doctrine bars federal district courts “from exercising subject matter jurisdiction over a
5 suit that is a de facto appeal from a state court judgment.”).

6 Therefore, petitioner’s second claim must be dismissed with prejudice. Because the
7 deficiencies in petitioner’s second claim cannot be cured by amendment, petitioner is denied
8 leave to amend as to his second claim because such amendment would be futile.

9 IV. PETITION FOR WRIT OF MANDATE

10 A. Applicable Legal Standards

11 Title 28 U.S.C. § 1361 confers upon the district courts original jurisdiction of any action
12 in the nature of mandamus “to compel an officer or employee of the United States or any agency
13 thereof” to perform a duty owed to the petitioner. 28 U.S.C. § 1361. Although 28 U.S.C. § 1651
14 states that all courts established by Act of Congress “may issue all writs necessary or appropriate
15 in aid of their respective jurisdictions and agreeable to the usages and principles of law,” the
16 federal courts lack subject matter jurisdiction to issue a writ of mandamus to a state agency or
17 official. See Demos v. United States District Court for the E. Dist. of Wash., 925 F.2d 1160,
18 1161-62 (9th Cir. 1991) (“to the extent that Demos attempts to obtain a writ in this court to
19 compel a state court to take or refrain from some action, the petitions are frivolous as a matter of
20 law”). In turn, California Code of Civil Procedure § 1085 “authorizes only state courts to issue
21 writs of mandate.” Hill v. County of Sacramento, 466 F. App’x. 577, 579 (9th Cir. 2012).

22 B. Discussion

23 This Court has a duty to determine its own subject matter jurisdiction, which may be
24 raised on the court’s own motion at any time. See Fed. R. Civ. P. 12(h)(3); Csibi v. Fustos, 670
25 F.2d 134, 136 n.3 (9th Cir. 1982) (citation omitted). Jurisdiction must always be affirmatively
26 alleged. Fed. R. Civ. P. 8(a)(1). A court will not infer allegations supporting federal jurisdiction
27 and is presumed to lack jurisdiction in a particular case unless the contrary affirmatively appears.
28 Stock W., Inc. v. Confederated Tribes of the Colville Rsrv., 873 F.2d 1221, 1225 (9th Cir. 1989).

Here, petitioner alleges there was an absence of felony complaint jurisdiction for his underlying criminal conviction, and that respondent and state authorities failed to perform or refused to perform their legal duties as set forth in the California Constitution and various state laws and regulations. (ECF No. 18 at 3, 5, 18, 24, 48.) Petitioner seeks to compel respondent and the real party in interest, the State of California, to vacate the state court judgment and release petitioner through a writ under California Code of Civil Procedure §§ 1085 and 1086. (*Id.*)

This Court lacks subject matter jurisdiction to issue such a writ. *See Hill*, 466 F. App'x at 579. Further, to the extent petitioner seeks to obtain a writ under 28 U.S.C. § 1361 or 28 U.S.C. § 1651, the Court also lacks subject matter jurisdiction over such a request. A “request for a writ of mandamus does not itself create federal subject matter jurisdiction.” *Robb v. California Air Res. Bd.*, 2023 WL 7092105, at *2 (E.D. Cal. Oct. 26, 2023) (citing *Mance v. U.S.*, 2007 WL 1546094, at *1 (D. Ariz. May 24, 2007)). The petition for writ of mandate does not allege facts that state a federal claim for relief.³ The petition does not assert any right arising under federal statute, treaty, or the Constitution that would confer jurisdiction upon this Court pursuant to 28 U.S.C. § 1331. Instead, petitioner primarily relies on state law and state regulations.⁴

The Court lacks subject matter jurisdiction to issue a writ of mandate as petitioner prays. *See Demos*, 925 F.2d at 1161-62. Accordingly, the petition for a writ of mandate should be dismissed for lack of subject matter jurisdiction.

V. CONCLUSION

Accordingly, IT IS HEREBY RECOMMENDED that:

1. The second amended petition (ECF No. 16) be summarily dismissed.
2. Petitioner's petition for writ of mandate (ECF No. 18) be denied.

³ As noted in the Court's prior findings and recommendations, “[t]he ‘sufficiency of an indictment or information is primarily a question of state law.’” (ECF No. 15 at 7 n.4. (citations omitted).)

⁴ Petitioner again relies on a default judgment. (ECF No. 18 at 4, 9.) But to the extent his reference to a default judgment is to the default judgment entered in the Alameda County Superior Court, Case No. RG20078772, such reliance is unavailing because the default judgment was subsequently set aside and thus has no legal effect. (ECF No. 15 at 6-7.)

1 3. This action be terminated.

2 These findings and recommendations are submitted to the United States District Judge
3 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days
4 after being served with these findings and recommendations, any party may file written
5 objections with the court and serve a copy on all parties. Such a document should be captioned
6 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
7 objections shall be served and filed within fourteen days after service of the objections. The
8 parties are advised that failure to file objections within the specified time may waive the right to
9 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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11 Dated: September 11, 2025

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13 CHI SOO KIM
14 UNITED STATES MAGISTRATE JUDGE

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